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10/557,283	11/30/2006	Subroto Chatterjee	61383(71699)	9024

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EDWARDS ANGELL PALMER & DODGE LLP  
P.O. BOX 55874  
BOSTON, MA 02205

EXAMINER
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HOWARD, ZACHARY C

ART UNIT	PAPER NUMBER
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1646

MAIL DATE	DELIVERY MODE
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02/02/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Notice of Non-Compliant Amendment (37 CFR 1.121)

Application No.

10/557,283

Examiner

ZACHARY C. HOWARD

Applicant(s)

CHATTERJEE ET AL.

Art Unit

1646

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 29 October 2009 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
  - ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_.
- ☐ 2. Abstract:
  - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_.
- ☐ 3. Amendments to the drawings:
  - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
  - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
  - ☐ C. Other \_\_\_\_\_.
- ☒ 4. Amendments to the claims:
  - ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: See Continuation Sheet.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):  
\_\_\_\_\_

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

## TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

**Extensions of time** are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

**Failure to timely respond** to this notice will result in:

**Abandonment** of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

**Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

/Bridget E Bunner/  
Primary Examiner, Art Unit 1647

Continuation of 4(e) Other:

The amendment to the claims filed on 10/29/09 is considered non-compliant because it fails to meet the requirements for amendments to the claims.

Specifically, the following amendments to the claims in the claim listing filed on 10/29/09 are not amendments compliant with 37 CFR 1.121(c)(2), which states, "All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of "currently amended," and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims."

In claim 1, line 4, a left parenthesis "(" has been added without markings indicating such (i.e., underlining). (Compare with the right parenthesis, which is underlined).

In claim 2, line 1, the word "ApoCI" has been deleted without markings indicating such (i.e., strikethrough). In the immediate previous version of the claim (11/19/05), line 1 included the word "ApoCI" ("...wherein the ApoCI protein is..."). This word is not accounted for in the proposed amended claim; thus, it has been deleted without appropriate markings indicating such.

As a courtesy the following is further noted:

(1) If the amendments were entered, claim 2 would be wholly unclear. Specifically, the amendments indicate that amended claim 2 would recite, "The method of claim 1, wherein protein elevated large ApoCI enriched HDL levels". It appears that the wherein clause is missing one or more words.

(2) The added text "ApoCI enriched" in claim 2 is not hyphenated as in dependent claim 3.

(3) The added limitation that the HDL is "ApoCI enriched" appears to render dependent claim 3 not further limiting (i.e., claim 3 recites that the elevated large HDL is ApoCI-enriched, but this limitation would now appear in parent claim 2).

(4) The abbreviation "ApoCI" should be accompanied by the full terminology (Apolipoprotein C-1) in claim 39, as it is an independent claim.

(5) The added text "ApoCI enriched" in claim 39 is not hyphenated as in claim 3.

Furthermore, Applicants' response filed on 10/29/09 does not contain any response (amendments or arguments) to the following issues set forth in the Office Action mailed 4/30/09:

(1) The objections to the drawings (Figures 7 and 13) at pg 3. As noted therein, corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application.

(2) The objection to the title of the specification at pg 3.